IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10875 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KHANT CHETANKUMAR DHULABHAI

Versus

STATE EXAMINATION BOARD

Appearance:

1. Special Civil Application No. 10875 of 2001

MR KB PUJARA for Petitioner No. 1

MR PREMAL JOSHI, AGP for Respondents No. 1-2

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 20/12/2001

ORAL JUDGEMENT

In this petition filed under Article 226 of the Constitution, petitioner who is a student and obtained admission in the course of Diploma in Physical Education (D.P.Ed.) for the year 1998-99 in sharirik Shikshan Mahavidyalaya, Chandkheda, Dist: Gandhinagar which was duly recognised by the Government of Gujarat by Government Resolution dated August 12, 1998 (Annexure-A

to the petition), completed the course and appeared at the annual examination held by the State Examination Board, Gujarat State in April, 1999, has prayed to direct the respondents to forthwith declare the result of the petitioner for the D.P.Ed. Examination held by the respondent No.1 Board in April 1999.

2. The petitioner duly completed the course and appeared at the annual examination held by the State Examination Board, Gujarat State in April, 1999. However, his result has not been declared till date. It is averred that the petitioner and his co-students were allowed to appear at the examination by the order dated April 12, 1999 passed in Special Civil Application No. 2571 of 1999 by this Court (Coram : D.C.Srivastava, J), which was preferred by the college management for recognition from NCTE (National Council for Teacher Education) and the said petition was withdrawn on October 16, 2000 (Coram : P.K.Sarkar, J) after the NCTE granted recognition to the D.P.Ed. course of the college for subsequent years. However, the result of the petitioner and his co-students was not declared. The co-students of the petitioner thereafter preferred Special Civil Application Nos. 4934 of 2001, 7068 of 2001 and 6803 of 2001 for declaration of their result and their results were directed to be declared by this Court vide orders dated July 25, 2001 (Coram : P.K.Sarkar, J), September 25, 2001 (Coram : R.M.Doshit, J) and September 27, 2001 (Coram : R.M.Doshit, J) respectively. The present petitioner is exactly similarly situated and therefore, by filing this petition, prayer is made to declare the result of the petitioner for the B.P.Ed. examination held by respondent No.1 Board in April 1999 to which reference is made in earlier paragraph.

3. I have considered the submissions advanced by Mr. K.B.Pujara, learned advocate for the petitioner and Mr. Premal Joshi, learned AGP for the respondents. I have perused the averments made in the petition as well as the documents and orders passed by this Court in various petitions, annexed therewith.

4. It may be appreciated that one Special Civil Application No. 4934 of 2001 was moved by Patel Mukeshkumar Ramabhai, wherein, similar relief was prayed for. This Court (Coram : Prakip Kumar Sarkar, J) vide order dated July 25, 2001 has observed that ;

> "It is true that unless the N.C.T.E. approves or affiliates the College or Institution, it is not permissible to issue any certificate by

University or State to grant any Degree or Diploma, but in any event, the Private institute can run its own institution and conduct examination and, if necessary, issue certificates to the successful candidates. Since the petitioners are awaiting for the results since 1999, I am of the view that even though the N.C.T.E. had not given approval to the Institute for the academic year 1998-99, the result of the petitioners should be declared. Accordingly, the respondents are directed to declare the results of the petitioners within two weeks from today."

5. Two other students have also filed two separate Special Civil Application Nos. 7068 of 2001 and 6803 of 2001 for similar relief. This Court (Coram : R.M.Doshit, J), vide two separate orders, recorded on September 25, 2001 and September 27, 2001 respectively, followed the order recorded by this Court in Special Civil Application No. 4934 of 2001 and, accordingly respondent was directed to declare the result within two weeks from the date of recording of the order and accordingly both the petitions came to be disposed of.

6. In view of the aforesaid state of affairs, when this Court in three separate petitions while recording the order directed the respondents to declare the result of the petitioners, there is no reason why different treatment should be given to the present petitioner and, therefore, present petition deserves to be allowed by directing the respondents to declare the result of the petitioner.

7. For the foregoing reasons, petition succeeds and accordingly it is allowed. The respondent No.1 Board is directed to declare the result of the petitioner for the B.P.Ed. examination held in April 1999 within a period of two weeks hereof. Rule is made absolute. No order as to cost. Direct service is permitted.

(A.M.Kapadia, J)

Jayanti*